

Regulation 1668

FINAL STATEMENT OF REASONS/PLAIN ENGLISH Overview/Non-Controlling Summary

Update

Regulation 1668 interprets and explains the Sales and Use Tax Law as it applies to sales for resale in the ordinary course of business. It explains the situations when sales of such property are subject to sales and use tax and when they are not.

Specific Purpose

The purpose of the proposed amendment is to interpret, implement, and make specific Revenue and Taxation Code section 6007 as it applies to such sales. This amendment is necessary to provide guidance to the taxpayers that engage in such transactions.

Factual Basis

Regulation 1668, in part, defines the elements, which a resale certificate is required to contain. Due to the peculiar problems of the auto body repair industry in determining what it purchased for consumption in repair services and what it purchased for resale to the customer, the Board determined that a resale certificate addressing the particular problems of the auto body repair industry was necessary.

The form of the sample resale certificate in the regulation was amended to add a cross-reference to the new resale certificate. A new form of a sample resale certificate specifically designed for the auto body repair industry is added. The new certificate lists property that repair shops typically purchase for resale and property that they typically consume and contains the elements required by Revenue and Taxation Code section 6093. It also contains a paragraph specifically alerting the purchaser to penalties for misuse of a resale certificate.

Local Mandate Determination

The Board of Equalization has determined that the amended regulation does not impose a mandate on local agencies or school districts.

Response to Public Comment

Prior to the Public Hearing, the Sales and Use Tax Department, at the suggestion of the Forms and Publications Section, redesigned the sample auto body certificate to more closely conform to the format conventions normally used by that section. The various paragraphs were given numbers and rewritten for clarity. The phrase "I have read and understand the following:" was added to the paragraphs regarding items typically purchased for consumption and misuse of a resale certificate to especially call the purchaser's attention to those paragraphs. The rights and duties of the purchaser remained unchanged.

Final Statement of Reasons/Plain English

On March 28, 2001, the Board held a public hearing on the proposed amendments to Regulation 1668. No written comments were received. Mr. Abe Golomb of Associated Sales Tax Consultants appeared at the public hearing. Mr. Golomb requested that the precatory language to paragraphs 6 and 7, "I have read and understand the following:" was too burdensome for taxpayers and should be deleted. The Board rejected this comment on the ground that this language was specifically put in to ensure that taxpayers paid especial attention to these paragraphs. Mr. Golomb also complained that the title "Warning" on paragraph 7 was too harsh. The Board accepted this comment and changed the title to "For Your Information." Copies of the changed version submitted to, and as amended by the Board, are attached hereto for ease of reference.

The Board determined that these changes did not alter the rights and duties of the parties and so were non-substantial under OAL Rule 40. As a result, the Board adopted the changed version of the regulation without referral to the 15-day file.

Small Business Impact

The Board of Equalization has determined that the amended regulation will not have a significant adverse economic impact on small businesses.

Adverse Economic Impact on Private Persons/ Businesses Not Including Small Business

No impact.

Federal Regulations

Regulation 1668 and the proposed change have no comparable federal regulations.

Plain English Statement

Preparation of the proposed amendment to this regulation included consideration of the "plain English" requirement. Any technical terms that may be unfamiliar to the intended users and are not industry-recognized are defined or explained.

Alternatives Considered

By its motion, the Board determined no alternative to amending the regulation would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the adopted regulation.